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**DEPARTMENT OF THE TREASURY  
UNITED STATES CUSTOMS SERVICE**

**19 CFR PARTS 132 AND 163**

**(T.D. 01- 35)**

**RIN 1515-AC83**

**LICENSES FOR CERTAIN WORSTED WOOL FABRICS  
SUBJECT TO TARIFF-RATE QUOTA**

**AGENCY:** U.S. Customs Service, Department of The Treasury.

**ACTION:** Interim rule; solicitation of comments.

**SUMMARY:** This document amends the Customs Regulations on an interim basis to set forth the form and manner by which an importer establishes that a valid license, issued under regulations of the U.S. Department of Commerce, is in effect for certain worsted wool fabric that is the subject of a tariff-rate quota. Such a license is necessary in order to enable the importer to claim the in-quota rate of duty on the worsted wool fabric.

**DATES:** Interim rule effective on May 1, 2001. The interim rule is applicable to products that are entered, or withdrawn from warehouse, for consumption on or after May 1, 2001. Comments must be received on or before [60 days from May 1, 2001].

**ADDRESSES:** Written comments may be addressed to and inspected at the

Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3<sup>rd</sup> Floor, Washington, D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:**

Erin Riley, Office of Field Operations, (202-927-5395).

**SUPPLEMENTARY INFORMATION:**

**BACKGROUND**

Under section 501 of the Trade and Development Act of 2000 (the AAct®) (Pub. L. 106-200, 114 Stat. 251; May 18, 2000), the Harmonized Tariff Schedule of the United States (HTSUS) was amended to establish a tariff-rate quota for certain worsted wool fabrics that are entered or withdrawn from warehouse for consumption, on or after January 1, 2001.

Generally, under a tariff-rate quota, the United States applies one tariff rate, known as the in-quota rate, to imports of a product up to a particular amount, known as the in-quota quantity, and another, higher rate, known as the over-quota rate, to imports of a product in excess of the given amount. The preferential, in-quota rate would be applicable to the product only to the extent that the aggregate in-quota quantity of the product that is entered or withdrawn for consumption is not exceeded during the quota year.

To establish the tariff-rate quota for worsted wool fabrics, subchapter 2 of Chapter 99, HTSUS, was amended by section 501(a) and (b) of the Act to add two new subheadings, 9902.51.11 and 9902.51.12, respectively.

The two new subheadings created by section 501(a) and (b) of the Act describe

certain fabrics of worsted wool provided for in subheadings 5111.11.70, 5111.19.60, 5112.11.20 and 5112.19.90, HTSUS. Since the passage of the Act, the President issued Presidential Proclamation 7383 (December 1, 2000). The Annex to that Presidential Proclamation provided, in pertinent part, for the following HTSUS substitutions, effective on or after January 1, 2001:

Subheading 5112.11.20 is replaced by subheadings 5112.11.30 and 5112.11.60; and

Subheading 5112.19.90 is replaced by subheadings 5112.19.60 and 5112.19.95.

Further, it is noted that HTSUS subheadings 5111.11.70 and 5111.19.60 do not provide for worsted wool fabric so fabrics described in those subheadings would not meet the description of fabrics that could fall under the tariff rate quota.

Accordingly, the tariff rate quota is applicable to certain fabrics of worsted wool provided for in subheadings 5112.11.30, 5112.11.60, 5112.19.60 and 5112.19.95, HTSUS, that are described in and entered under subheadings 9902.51.11 and 9902.51.12, HTSUS.

### **Need for Tariff-Rate Quota for Worsted Wool Fabrics**

Worsted wool fabrics as described in HTSUS subheadings 5112.11.30, 5112.11.60, 5112.19.60 and 5112.19.95 are subject to a duty rate of 28.3% ad valorem. However, articles, such as men's suits, that are made (cut and sewn) from this fabric, are dutiable at the lower rate of 18.8% ad valorem.

By applying a higher tariff rate to the input product, *i.e.*, the worsted wool fabric, than to the more labor-intensive and higher-value-added apparel items that are made

from the fabric, the tariff schedule in effect provides an incentive for the importation of the finished apparel items at the lower rate of duty, to the competitive detriment of U.S. suit-makers. Furthermore, this tariff inversion is compounded by the additional reduction in tariffs on men's wool suits that are made in Canada or Mexico pursuant to the North American Free Trade Agreement Implementation Act (NAFTA) (Pub. L. 103-182; December 8, 1993). In this latter instance, U.S. suit-makers face greater competitive disadvantage due to the increased difference in tariff between the worsted wool fabric relative to the free rate of duty on imports of such suits under NAFTA.

Consequently, under the tariff-rate quota adopted in this case, the tariff on imported worsted wool fabric entered under HTSUS subheading 9902.51.11 or 9902.51.12 (which includes certain fabric of worsted wool provided for in HTSUS subheadings 5112.11.30, 5112.11.60, 5112.19.60 and 5112.19.95) is reduced in an effort to limit the above-described tariff inversion, and the resultant competitive disadvantage, faced by U.S. suit-makers in the purchase of such fabric that is intended for use in the manufacture of men's and boys' suits, suit-type jackets and trousers.

### **Application of Tariff-Rate Quota under HTSUS Subheadings**

#### **9902.51.11 and 9902.51.12**

Specifically, under subheading 9902.51.11, which covers those worsted wool fabrics having an average fiber diameter greater than 18.5 micron, the applicable tariff rate is reduced from the current rate of 28.3% ad valorem to the rate in effect for worsted wool suit-type jackets in HTSUS subheading 6203.31.00 (currently, 18.8% ad valorem); and, under subheading 9902.51.12, which covers those worsted wool fabrics

having an average fiber diameter of 18.5 micron or less, the applicable tariff rate is reduced from the current U.S. rate of 28.3% to a rate equivalent to the Canadian Most favored nation<sup>®</sup> (MFN) rate for imports of such fabric (currently, 6%).

Both subheadings 9902.51.11 and 9902.51.12 also require that the worsted wool fabric be certified by the importer as being suitable for use in making suits, suit-type jackets, or trousers.

This tariff-rate quota for worsted wool fabric is to be in effect for calendar years 2001, 2002 and 2003. The quota year is thus the calendar year (from January 1 - December 31, inclusive) in which the subject fabric is entered or withdrawn for consumption.

The in-quota quantities of worsted wool fabric entered under HTSUS subheading 9902.51.11 or 9902.51.12 that are eligible for the reduced tariffs for each quota year are limited, respectively, to 2.5 million square meter equivalents and 1.5 million square meter equivalents (U.S. Notes 15 and 16 to subchapter II of Chapter 99, HTSUS, respectively, as amended by section 501(d) of the Act). These in-quota quantities may be adjusted on an annual basis as provided in section 504(b) of the Act.

#### **Administration of Tariff-Rate Quota by U.S. Department of Commerce**

In implementing the in-quota limits on the quantities of worsted wool fabric that may be entered or withdrawn for consumption subject to the reduced tariffs afforded by subheadings 9902.51.11 and 9902.51.12, the U.S. Department of Commerce has been delegated the authority under section 501(e) of the Act to fairly apportion these in-quota quantities among those persons, including firms, corporations and other legal

entities, in the United States, who cut and sew men's and boys' worsted wool suits, suit-type jackets and trousers. This delegation of authority to the Department of Commerce was effected by Presidential Proclamation No. 7383 (December 1, 2000).

Accordingly, the Department of Commerce has issued regulations setting up a program for the allocation of the aggregate in-quota quantity established, respectively, for subheadings 9902.51.11 and 9902.51.12 (15 CFR 335.1 - 335.7; see **Federal Register** dated January 22, 2001 (66 FR 6459)).

In pertinent part, under this program, the usage of the quota is allocated to U.S. suit-makers by virtue of licenses issued to them by the Department of Commerce. Each license is issued for a stated quantity of fabric and is required to have a unique control number. A suit-maker who has been issued such a license (a licensee) may enter worsted wool fabric under subheading 9902.51.11 or 9902.51.12 at the related in-quota rate of duty, up to the amount authorized in the license.

However, if the importer of record is not the licensee, the importer must have received an authorization from the licensee to act on its behalf, in order to be entitled to the in-quota rate of duty. The licensee may only authorize an importer to import fabric under the license on its behalf by making such an authorization in writing or by an electronic notice to the importer and by providing a copy of such authorization to the Department of Commerce. This authorization must include the unique control number of the license; it must specifically cover the fabric being imported; and it must be in the possession of the importer at the time of filing the entry summary or warehouse withdrawal for consumption (Customs Form 7501), or its electronic equivalent, in order

for the importer to be eligible for the applicable in-quota rate of duty.

A licensee may only withdraw an authorization from an importer by notifying the importer in writing or by electronic notice and by providing a copy of this withdrawal notification to the Department of Commerce. It is the responsibility of the licensee to safeguard the use of the license issued. Neither the Department of Commerce nor Customs is liable for any unauthorized or improper use of the license.

### **Corresponding Customs Rulemaking**

In accordance with the rulemaking of the Department of Commerce, Customs is issuing this interim rule in order to set forth a new ' 132.18, Customs Regulations (19 CFR 132.18), that prescribes the form and manner by which an importer establishes that a valid license exists for worsted wool fabric subject to the tariff-rate quota that is entered under HTSUS subheading 9902.51.11 or 9902.51.12. In particular, the unique control number assigned to the license must be referenced on the entry summary or warehouse withdrawal for consumption, or its electronic equivalent, in order to entitle the importer to claim the in-quota rate of duty on the worsted wool fabric.

Section 132.18 also makes clear that by claiming the in-quota rate of duty for worsted wool fabric that is entered under HTSUS subheading 9902.51.11 or 9902.51.12, the importer is thus certifying that the worsted wool fabric is suitable for use in making suits, suit-type jackets, or trousers, as required under these subheadings.

In addition, this document revises the Interim (a)(1)(A) List set forth as an Appendix to part 163, Customs Regulations (19 CFR part 163, Appendix) to make

reference to the license or written authorization required under new ' 132.18. The (a)(1)(A) List provides a listing of the records and information required for the entry of merchandise.

### **COMMENTS**

Before adopting this interim regulation as a final rule, consideration will be given to any written comments that are timely submitted to Customs. Customs specifically requests comments on the clarity of this interim rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), ' 1.4, Treasury Department Regulations (31 CFR 1.4), and ' 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3<sup>rd</sup> Floor, Washington, D.C.

### **INAPPLICABILITY OF NOTICE AND DELAYED EFFECTIVE DATE REQUIREMENTS,**

#### **THE REGULATORY FLEXIBILITY ACT, AND EXECUTIVE ORDER 12866**

Pursuant to the provisions of 5 U.S.C. 553(b)(B), Customs has determined that good cause exists for dispensing with prior public notice and comment procedures for this interim rule. This interim rule implements a preferential tariff benefit in favor of the importing public; it provides a necessary and reasonable means for carrying out this preferential tariff benefit; and it closely parallels existing regulatory provisions that implement similar trade preference programs. Also, for these same reasons, there is



no need for a delayed effective date under 5 U.S.C. 553(d). Because no notice of proposed rulemaking is required for interim regulations, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply. Nor does this document meet the criteria for a significant regulatory action<sup>®</sup> as specified in E.O. 12866.

### **PAPERWORK REDUCTION ACT**

The collections of information involved in this interim rule have already been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned OMB Control Numbers 1515-0065 (Entry summary and continuation sheet) and 1515-0124 (General recordkeeping and record production requirements). This rule does not make any material change to the existing approved information collections.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

### **LIST OF SUBJECTS**

#### **19 CFR PART 132**

Customs duties and inspection, Quotas, Reporting and recordkeeping requirements.

#### **19 CFR PART 163**

Administrative practice and procedure, Customs duties and inspection, Imports, Reporting and recordkeeping requirements.

### **AMENDMENTS TO THE REGULATIONS**

Accordingly, parts 132 and 163, Customs Regulations (19 CFR parts 132 and 163), are amended as set forth below.

### **PART 132 - QUOTAS**

1. The general authority citation for part 132 continues to read, and the specific sectional authority under this part is revised to read, as follows:

**AUTHORITY:** 19 U.S.C. 66, 1202 (General Note 22, Harmonized Tariff Schedule of the United States (HTSUS)), 1623, 1624.

' ' 132.15 through 132.18 also issued under 19 U.S.C. 1202 (additional U.S. Note 3 to Chapter 2, HTSUS; subchapter III of Chapter 99, HTSUS; additional U.S. Note 8 to Chapter 17, HTSUS; and subchapter II of Chapter 99, HTSUS, respectively), 1484, 1508.

2. Part 132 is amended by adding a new ' 132.18 to read as follows:

' **132.18 License for certain worsted wool fabric subject to tariff-rate quota.**

(a) Requirement. For worsted wool fabric that is entered under HTSUS subheading 9902.51.11 or 9902.51.12, the importer must possess a valid license, or a written authorization from the licensee, pursuant to regulations of the U.S. Department of Commerce (15 CFR 335.5), in order to claim the in-quota rate of duty on the worsted wool fabric at the time it is entered or withdrawn from warehouse for consumption. The importer must record the distinct and unique 9-character number for the license

covering the worsted wool fabric on the entry summary or warehouse withdrawal for

consumption (Customs Form 7501, column 34), or its electronic equivalent (see paragraph (c)(1) of this section).

(b) Importer certification. By entering the worsted wool fabric under HTSUS subheading 9902.51.11 or 9902.51.12, the importer thus certifies that the worsted wool fabric is suitable for use in making suits, suit-type jackets, or trousers, as required under these subheadings.

(c) Validity of license. (1) License number. To be valid, the license, or written authorization issued under the license and including its unique control number, must meet the requirements of 15 CFR 335.5, and with respect to the requirement in 15 CFR 335.5(a) that the license have a unique control number, the license must have a distinct and unique identifying number consisting of 9 characters comprised of the following three elements:

- (i) The first character must be a AW@;
- (ii) The second and third characters must consist of the last 2 digits of the calendar year for which the license is issued and during which it is in effect; and
- (iii) The final 6 characters represent the distinct and unique identifier assigned to the license by the Department of Commerce.

(2) Use of license. A license covering worsted wool fabric that is

entered under HTSUS subheading 9902.51.11 or 9902.51.12 is in effect, and may be used to obtain the applicable in-quota rate of duty for fabric that is entered or withdrawn for consumption, only during the specific calendar year (January 1 - December 31, inclusive) for which the license is issued (see 15 CFR 335.2 and 335.5(b) and (d)).

(d) Retention and production of license or authorization to Customs. The license and any written authorization from the licensee to the importer are subject to the recordkeeping requirements of part 163 of this chapter (19 CFR part 163). Specifically, the license and any written authorization must be retained for a period of 5 years in accordance with ' 163.4(a) of this chapter, and must be made available to Customs upon request in accordance with ' 163.6(a) of this chapter.

#### **PART 163 - RECORDKEEPING**

1. The authority citation for part 163 continues to read as follows:

**AUTHORITY:** 5 U.S.C. 301; 19 U.S.C. 66, 1484, 1508, 1509, 1510, 1624.

2. The Appendix to part 163 is amended by adding the following new listing under section IV in appropriate numerical order to read as follows:

#### **APPENDIX TO PART 163 - INTERIM (a)(1)(A) LIST**

\* \* \* \*

IV. \* \* \*

' 132.18 License, or written authorization, as applicable, for worsted wool fabric  
subject to tariff-rate quota

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Charles W. Winwood

Acting Commissioner of Customs

Approved: April 9, 2001

Acting Deputy Assistant Secretary of the Treasury  
Timothy E. Skud